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Attorneys for Plaintiffs Jonathan Groce and Susan Horowitz

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JONATHAN GROCE and SUSAN HOROWITZ, on
behalf of herself and all others similarly situated,

Plaintiffs,

vs.

NETFLIX, INC., WAL-MART STORES, INC., and
WALMART.COM USA LLC,

Defendants.

Case No. 09-cv-0139 MEJ

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rules 3-12, Plaintiffs Jonathan Groce and
3 Susan Horowitz submit this administrative motion for the Court to consider whether *Jonathan Groce,*
4 *et al. v. Netflix, Inc., et al.*, Case No. 09-cv-0139 MEJ, a putative class action lawsuit filed on January
5 12, 2009, should be related to *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No 09-cv-
6 0002, filed on January 2, 2009, the low-numbered action also pending in this District. That action has
7 been assigned to the Honorable Phyllis J. Hamilton. In addition to the *Resnick* action, other related
8 actions pending in this District are *Michael O'Connor v. Walmart.com USA LLC, et al.*, Case No. 09-
9 cv-0096 MEJ, filed on January 9, 2009, assigned to the Honorable Maria-Elena James; *Sarah*
10 *Endzweig v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0111 JCS, assigned to the Honorable
11 Joseph C. Spero; *Christopher P. Schmitz v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0116
12 EMC, assigned to the Honorable Edward M. Chen; and *Scott Lynch, et al. v. Walmart.com USA LLC,*
13 *et al.*, Case No. 09-cv-0138 BZ, assigned to the Honorable Bernard Zimmerman. The *Resnick,*
14 *O'Connor, Endzweig, Schmitz,* and *Lynch* actions have not been ordered related as of January 14,
15 2009.

16 These actions involve substantially the same transactions, events, questions of law, and allege
17 essentially the same violations of federal antitrust law against substantially the same defendants.
18 These actions allege that defendants conspired to allocate the market of DVD rentals, agreed not to
19 compete in that market, and that Netflix monopolized the DVD rental market. These actions are
20 alleged to have harmed consumers who were Netflix subscribers by causing them to pay more for
21 their subscriptions than they would have paid absent Defendants' illegal market allocation agreement.

22 It appears likely that there will be an unduly burdensome duplication of labor and expenses
23 and potentially conflicting results if the cases are heard before different judges.

24 Given the similarities of these actions, assignment of these cases to a single Federal District
25 Court Judge will conserve judicial resources and promote efficient determination of the actions while
26 avoiding potentially conflicting results. All three cases pending in this District are at a preliminary
27 stage and, thus, assignment to a single judge would not prejudice any of the parties. Accordingly,
28 plaintiffs Jonathan Groce and Susan Horowitz respectfully request that the action entitled *Jonathan*

1 *Groce, et al. v. Netflix, Inc., et al.* be deemed related to *Andrea Resnick, et al. v. Walmart.com USA*
2 *LLC, et al.*, the first filed case in this District, which is presently assigned to the Honorable Phyllis J.
3 Hamilton.

4
5 DATED: January 14, 2009

Respectfully submitted,

6
7 By: /s/ Alex C. Turan

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